

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE - SW/Corner German Hill Road and Plainfield Road (7701 German Hill Road) 12th Election District 7th Councilmanic District Cloverland Farms Dairy, Inc. Petitioner

\* BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

\* Case No. 94-183-XA

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception and Petition for Variance for that property known as 7701 German Hill Road and Plainfield Road, filed by its owners, the Cloverland Farms Dairy, Inc., by John M. Kemp, Vice President. The Petitioners seek a special exception to permit an automotive service station use in combination with a food store with less than 5000 sq.ft., pursuant to Sections 405.2.B.1 and 405.4.D.8 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition to the special exception relief sought, the Petitioners seek variance relief from Sections 405.4.A.1 and 405.4.D.8 to permit a site area of 19,210 sq.ft. in lieu of the minimum required 26,608 sq.ft., and from Section 409.4 to permit vehicular travelways with direct access to off-street parking, all as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petition were John M. Kemp, Vice President, and Charles Stark, Registered Professional Engineer. There were no Protestants.

Testimony indicated that the subject property, known as 7701 German Hill Road, consists of 0.441 acres, zoned B.L.-C.N.S., and is improved with two, one-story buildings which are presently used as a carry-out and sandwich shop. The Petitioners are desirous of razing the existing

structures and redeveloping the site with a Royal Farm Store of 2,930 sq.ft. and accessory gasoline service station in accordance with that depicted on Petitioner's Exhibit 1. Mr. Kemp testified that the proposed improvements will be of substantial benefit to the area and modernize the subject site. Because of the irregular shape of this corner lot and its small size, the requested variances are needed in order to proceed with development as proposed. Testimony further indicated that due to the proposed food store use in combination with a gasoline service station operation on this site, the special exception is necessary.

It should be noted that there were no adverse comments received from any of the Baltimore County reviewing agencies; however, a landscape plan must be submitted for review and approval by the Baltimore County Landscape Architect prior to the issuance of any occupancy permits.

It is clear that the B.C.Z.R. permits the use proposed in a B.L.-C.N.S. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 902.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a spe-

cial exception use, irrespective of its location within the zone. Schultz v. Pritte, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 6<sup>th</sup> day of December, 1993 that the Petition for Special Exception to approve an automotive service station use in combination with a food store with less than 5000 sq.ft., pursuant to Sections 405.2.B.1 and 405.4.D.8 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the restrictions set forth hereinafter; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 405.4.A.1 and 405.4.D.8 of the B.C.Z.R. to permit a site area of 19,210 sq.ft. in lieu of the minimum required 26,608 sq.ft., and from Section 409.4 of the B.C.Z.R. to permit vehicular travelways with direct access to off-street parking, pursuant to Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order;

However, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

2) Prior to the issuance of any occupancy permits, the Petitioners shall submit a landscape plan for review and approval by the Baltimore County Landscape Architect.

3) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

THK:bjs

ORDER RECEIVED FOR FILING  
Date 12/6/93  
By [Signature]

ORDER RECEIVED FOR FILING  
Date 12/6/93  
By [Signature]

ORDER RECEIVED FOR FILING  
Date 12/6/93  
By [Signature]

ORDER RECEIVED FOR FILING  
Date 12/6/93  
By [Signature]

- 2 -

- 3 -

- 4 -

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning



Suite 113 Courthouse  
400 Washington Avenue  
Towson, MD 21204

December 6, 1993

(410) 887-4386

Nathan Patz, Esquire  
10 Light Street  
Baltimore, Maryland 21202

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE  
SW/Corner German Hill Road and Plainfield Road  
(7701 German Hill Road)  
12th Election District - 7th Councilmanic District  
Cloverland Dairy Farms, Inc. - Petitioners  
Case No. 94-183-XA

Dear Mr. Patz:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

THK:bjs

cc: Mr. John M. Kemp  
Vice President, Cloverland Dairy Farms, Inc.  
2200 North Monroe Street, Baltimore, Md. 21217

People's Counsel

file

## Petition for Special Exception

94-183-XA  
to the Zoning Commissioner of Baltimore County

for the property located at 7701 German Hill Road  
which is presently zoned BL-CNS

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

To permit an automotive service station per 405.2B.1 and to permit a service station in combination with a food store with less than 5000 square feet per 405.4D.8.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contractor/Postmaster/Owner:

Cloverland Farms Dairy, Inc.

John M. Kemp, V.P.

2200 North Monroe Street

Baltimore Maryland 21217

City State Zip

Phone No. 669-2222

Address

Nathan Patz's Office

10 Light Street

Baltimore Maryland 21202

City State Zip

Phone No. 685-6666

Address

City State Zip

Phone No. 685-6666

Address

City State Zip

Phone No. 685-6666

Address

City State Zip

Phone No. 685-6666

Address

City State Zip

Phone No. 685-6666

Address

Legal Owner:

John M. Kemp, Vice-President Cloverland Farms

John M. Kemp

John M. Kemp, Vice-President Cloverland Farms

John M. Kemp

John M. Kemp

John M. Kemp

John M. Kemp

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John M. Kemp

## Petition for Variance

94-183-XA  
to the Zoning Commissioner of Baltimore County

for the property located at 7701 German Hill Road  
which is presently zoned BL-CNS

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

See Attached.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)  
Due to the shape and size of the tract of land involved and providing enough area for the required parking and ample area for circulation for vehicles.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contractor/Postmaster/Owner:

Cloverland Farms Dairy, Inc.

John M. Kemp, V.P.

2200 North Monroe Street

Baltimore Maryland 21217

City State Zip

Phone No. 669-2222

Address

Nathan Patz's Office

10 Light Street

Baltimore Maryland 21202

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City State Zip

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City State Zip

Phone No. 685-6666

Address

City State Zip

Phone No. 685-6666

Address

Legal Owner:

John M. Kemp, Vice-President Cloverland Farms

John M. Kemp

John M. Kemp, Vice-President for Cloverland

John M. Kemp

John M. Kemp

John M. Kemp

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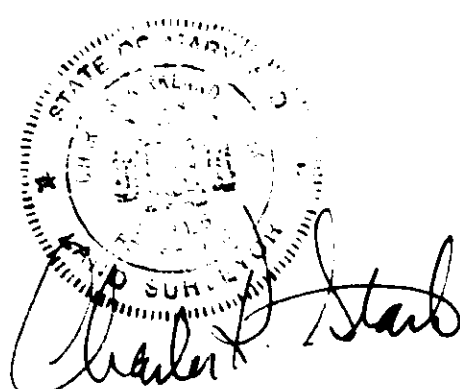
- 94-183-XA
1. Variance from Section 405.4A.1 and 405.4D.8 to permit a site area of 19,210 square feet in lieu of the required 26,608 square feet.
  2. Variance from Section 409.4 to permit vehicular travelway with direct access to offstreet parking.

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FROM THE OFFICE OF  
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.  
ENGINEERS  
300 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204  
August 5, 1991 REV.  
Description to Accompany Petition  
For Special Exception and Variance.  
Beginning for the same on the northeast right of way line of Plainfield Road  
60 feet wide distant 150 feet more or less measured southeasterly along the northeast  
right of way line of Plainfield Road from its intersection with the southwest  
right of way line of German Hill Road 60 feet wide and at the beginning of that  
tract of land which by deed dated September 28, 1981 and recorded among the Land  
Records of Baltimore County in Liber E.H.K., Jr. 6333 folio 590 was conveyed by  
Frances C. Stengel to Francis C. Stengel thence running with and binding on the  
northeast right of way line of Plainfield Road  
1 - North 13° 59' 50" West 124.24 feet thence  
2 - North 43° 26' 20" East 24.22 feet to the southwest right of way line  
of German Hill Road 60 feet wide thence running with and binding on the southwest  
right of way line of German Hill Road the two following courses and distances  
3 - South 74° 23' 40" East 75.86 feet and  
4 - Southeasterly by a line curving to the east with a radius of 830.00 feet  
for an arc distance of 49.89 feet (the chord of said arc being South 76° 06' 59"  
East 49.88 feet) thence  
5 - South 13° 59' 50" East 150.51 feet thence  
6 - North 74° 25' 30" West 150.00 feet to the place of beginning.  
Containing 0.441 acres of land more or less.



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94-183-XA  
CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland  
District: 12th Date of Posting: 11/13/93  
Posted for: Arnold Jablon, Director  
Petitioner: Cloverland Farm Dairy, Inc.  
Location of property: 2200 N. Monroe St. Towson, MD 21204  
Location of Signs: 2200 N. Monroe St. Towson, MD 21204  
Remarks:  
Posted by: [Signature] Date of return: 11/18/93  
Number of Signs: 2

181  
CERTIFICATE OF PUBLICATION  
TOWSON, MD., 11/11, 1993  
THIS IS TO CERTIFY, that the annexed advertisement was  
published in THE JEFFERSONIAN, a weekly newspaper published  
in Towson, Baltimore County, Md., once in each of 1 successive  
weeks, the first publication appearing on 11/11, 1993.  
THE JEFFERSONIAN,  
A. Henickson  
LEGAL AD. - TOWSON  
Publisher

Item 180 receipt  
94-183-XA  
Account: R-001-6180  
Number: JCM  
Date: 10-27-93  
John Kemp (CLOVERLAND FARM TAXES) 2200 N. MONROE ST.  
SP. EX. (050) 300.00  
VAR. (020) 250.00  
Posting (080) 35X2 70.00  
\$620.00  
DLA01W039W1CHRC \$620.00  
PA C002138PA10-27-93  
Please Make Checks Payable To: Baltimore County  
Coshier Validation

Item 181 receipt  
Account: R-001-6180  
Number: JCM  
Date: 11-4-93  
CLOVERLAND FARM Dairy, Inc. 2200 N. Monroe St.  
Revision fee (110) (100.00)  
RECEIVED NOV 4 1993  
DLA01W0219W1CHRC \$100.00  
PA C01138AM11-04-93  
Please Make Checks Payable To: Baltimore County  
Coshier Validation

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353  
ZONING HEARING, ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES  
Baltimore County Zoning Regulations require that notice be given to  
the general public/neighborhood property owners relative to property  
which is the subject of an upcoming zoning hearing. For those petitions  
which require a public hearing, this notice is accomplished by posting  
a sign on the property and placement of a notice in at least one  
newspaper of general circulation in the County.  
This office will ensure that the legal requirements for posting and  
advertising are satisfied. However, the petitioner is responsible for  
the costs associated with these requirements.  
PAYMENT WILL BE MADE AS FOLLOWS:  
1) Posting fees will be assessed and paid to this office at the  
time of filing.  
2) Billing for legal advertising, due upon receipt, will come  
from and should be remitted directly to the newspaper.  
NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.  
[Signature]  
ARNOLD JABLON, DIRECTOR  
For newspaper advertising:  
Item No.: 181  
Petitioner: John Kemp, U.P. Cloverland Farms  
Location: 2200 N. Monroe St.  
PLEASE FORWARD ADVERTISING BILL TO:  
NAME: John M. Kemp  
ADDRESS: 2200 N. Monroe St.  
BALTO., MD. 21217  
PHONE NUMBER: 669-2222  
Atty: [Signature]  
(Revised 04/09/93)

TO: POTTSDAM PUBLISHING COMPANY  
November 11, 1993 Issue - Jeffersonian  
Please forward billing to:  
John M. Kemp  
Cloverland Farm Dairy, Inc.  
2200 N. Monroe Street  
Baltimore, Maryland 21217  
410-669-2222  
NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore  
County, will hold a public hearing on the property identified herein in  
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:  
CASE NUMBER: 94-183-XA (Item 181)  
7701 German Hill Road  
SE Intersection German Hill and Plainfield Roads  
12th Election District - 7th Councilmanic  
Owner/Petitioner: Cloverland Farm Dairy, Inc.  
HEARING: WEDNESDAY, DECEMBER 1, 1993 at 10:00 a.m. in Rm. 118, Old Courthouse.  
Special Exception to permit an automotive service station and to permit a service station in combination  
with a food store with less than 5,000 sq. ft.  
Variance to permit a site area of 19,210 sq. ft. in lieu of the required 26,608 sq. ft.; and to permit  
vehicular travelway with direct access to off-street parking.  
LAWRENCE E. SCHULTZ  
ZONING COMMISSIONER FOR BALTIMORE COUNTY  
NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, CONTACT THIS OFFICE BY 887-3391.

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353  
November 5, 1993  
NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore  
County, will hold a public hearing on the property identified herein in  
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:  
CASE NUMBER: 94-183-XA (Item 181)  
7701 German Hill Road  
SE Intersection German Hill and Plainfield Roads  
12th Election District - 7th Councilmanic  
Owner/Petitioner: Cloverland Farm Dairy, Inc.  
HEARING: WEDNESDAY, DECEMBER 1, 1993 at 10:00 a.m. in Rm. 118, Old Courthouse.  
Special Exception to permit an automotive service station and to permit a service station in combination  
with a food store with less than 5,000 sq. ft.  
Variance to permit a site area of 19,210 sq. ft. in lieu of the required 26,608 sq. ft.; and to permit  
vehicular travelway with direct access to off-street parking.  
[Signature]  
Arnold Jablon  
Director  
cc: John M. Kemp/Cloverland Farm Dairy, Inc.  
Nathan Patz, Esq.  
NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, CONTACT THIS OFFICE BY 887-3391.

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353  
November 23, 1993  
Nathan Patz, Esquire  
10 Light Street  
Baltimore, Maryland 21202  
RE: Case No. 94-183-XA, Item No. 181  
Petitioner: Cloverland Farm Dairy, Inc.  
Petitions for Variance and Special Exception  
Dear Mr. Patz:  
The Zoning Plans Advisory Committee (ZAC) has reviewed the plans  
submitted with the above referenced petition. The attached comments from  
each reviewing agency are not intended to indicate the appropriateness of  
the zoning action requested, but to assure that all parties, i.e., zoning  
commissioner, attorney and/or the petitioner, are made aware of plans or  
problems with regard to the proposed improvements that may have a bearing  
on this case.  
Enclosed are all comments submitted thus far from the members of ZAC  
that offer or request information on your petition. If additional  
comments are received from other members of ZAC, I will forward them to  
you. Otherwise, any comment that is not informative will be placed in the  
hearing file. This petition was accepted for filing on October 27, 1993,  
and a hearing was scheduled accordingly.  
The following comments are related only to the filing of future  
zoning petitions and are aimed at expediting the petition filing process  
with this office.  
1. The director of Zoning Administration and Development Management  
has instituted a system whereby seasoned zoning attorneys who  
feel that they are capable of filing petitions that comply with  
all aspects of the zoning regulations and petitions filing  
requirements can file their petitions with this office without  
the necessity of a preliminary review by zoning personnel.

Maryland Department of Transportation  
State Highway Administration  
O. James Lightizer  
Secretary  
Hal Kassoff  
Administrator  
Ms. Charlotte Minton  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204  
Re: Baltimore County  
Item No.: 94-183-XA (2200 N. Monroe St.)  
Dear Ms. Minton:  
This office has reviewed the referenced item and we have no objection to  
approval as it does not access a State roadway and is not effected by any State Highway  
Administration project.  
Please contact Bob Small at 410-333-1350 if you have any questions.  
Thank you for the opportunity to review this item.  
Very truly yours,  
[Signature]  
DAVID N. FANTLEY  
John Contestabile, Chief  
Engineering Access Permits  
Division  
BS/  
My telephone number is  
Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free  
Mailing Address: P.O. Box 717 - Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street - Baltimore, Maryland 21202





Maryland Department of Transportation  
State Highway Administration

O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

Ms. Charlotte Minton  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Baltimore County  
Item No.: 181

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

John Contestabile, Chief  
Engineering Access Permits  
Division

BS/

My telephone number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free  
Mailing Address: P.O. Box 717 - Baltimore, MD 21203-0717  
Street Address: 737 North Calvert Street - Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and Development Management  
DATE: November 15, 1993  
FROM: Robert W. Bowling, Senior Engineer  
Development Plan Review  
RE: Zoning Advisory Committee Meeting  
for November 15, 1993  
Item No. 181

The Development Plan Review Section has reviewed the subject zoning item. See the comments on Waiver W91 189 from this section, dated November 10, 1993.

In addition, the final landscape plan will be subject to the previously given planting design comments.

RWB

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development Management  
FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

DATE: November 15, 1993

SUBJECT: 7701 German Hill Road

INFORMATION:

Item Number: 181

Petitioner: Cloverland Farms Dairy, Inc.

Property Size: \_\_\_\_\_

Zoning: B.L.-C.N.S.

Requested Action: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

SUMMARY OF RECOMMENDATIONS:

On September 19, 1991, Cloverland Farms Dairy, Inc., requested a waiver of the C.R.G. meeting and record plat for the proposed commercial development of 7701 German Hill Road. The Planning Board granted the subject request and subsequent to the Board's approval, staff provided comments on the proposed plan and indicated certain revisions are needed. The current plan reflects these changes (see Inter-Office Memorandum of October 11, 1991, attached). Therefore, this office recommends that the applicant's request be approved.

Prepared by: Jeffrey M. Long

Division Chief: Cheryl L. Kinn

PK/JL:lw



